

Draft Workplan for Bucket #3: Leveraging SEPA for “Climate Friendly” Development

The drafting team provided general comments that are included in this “Concept to Consider” section, as well as specific items for the “Key Decisions” and Key Products’ sections further below. The comments represent the view point of the individual drafting team members.

Concepts to Consider

Changing the rules of development to encourage development that reduces GHG emissions

What programmatic approaches should be used?

Our review of SEPA must closely track and complement what steps we take in GMA and the extent to which any jurisdiction addresses in its regulations significant environmental (including climate change) impacts. We should, as we go forward, do all we can to encourage/require jurisdictions to do subarea EISs in order to both develop GMA regulations and cover the range of impacts anticipated as the subarea plan is built out. Dick and I (Tayloe) have some ideas on how we can better assist cities which conduct what in many cases will be expensive subarea EISs. If we are serious about achieving our density goals in urban centers in particular, we must make it as predictable and efficient as possible for the development community. While some jurisdictions have made progress, all have a ways to go to meet this standard.

A second and related issue is the benefit of ensuring that the anticipated impacts which relate to climate change issues are adequately dealt with, to the greatest extent possible, at the city wide or subarea level, instead of project specific SEPA review. Adding a new layer of project level SEPA review focused on project level climate change impacts would be a step in the wrong direction, and create a disincentive for developers in the very areas we want to encourage development.

We need to recognize the studies by ULI and others that establish the material reduction in VMTs which can be attained over time by developing more compact areas for urban development. This was vividly confirmed at the recent Reality Check exercise, which identified the most favorable development scenario in terms of climate change impacts in Puget Sound area to be the most dense 5 urban center scenario. Thus, if the CAT is focused on reducing VMTs, it should devote attention to using regulatory tools such as the SEPA process, in new ways to help achieve this goal.

The success of our CAT efforts depends in no small part on the progress we make in Bucket 3, if we really want to make an on-the-ground difference and achieve climate-friendly compact development with the associated reduction in VMTs.

What incentives should be used?

How strong an incentive can SEPA deliver? Do we want to encourage local jurisdictions to create land use zoning districts which achieve GHG reduction goals because they: (a) reduce vehicle trips traveled (through co-location; densities; great design, etc.); and (b) increase building operation efficiency, perhaps even tracking with Architecture 2030? The district would be designed to achieve GHG reduction goals, but to actually work it would need to do two things. First, it must be attractive to the market - meaning policy makers deliver the right profit signals. Second, it must address potential neighborhood opposition by creating a great community for the people living there. Both SEPA and GMA were enacted partly because we were failing in our

attempts to create place and community. We have not yet achieved those goals. To do so, our public policy must send the right signals to the market and the public. SEPA is just one tool, but are we willing to really put it to work? If so, that means crafting an exemption for zoning districts and projects within those districts, which meet set sustainability criteria.

The most meaningful contributions towards encouraging climate friendly development will be at the programmatic level (urban and transportation planning) not at the project level. To that end, we should try to prioritize ideas relating to GMA/comprehensive planning and transportation. Unfortunately, those topics are being covered by other workgroups (CAT Transportation IWG and the Climate/GMA Advisory Committee). We need to find a way to incorporate the products or ideas from those groups into the work of the SEPA IWG, even if it comes later in the process.

How can SEPA take into account the adverse impacts of global warming on the proposed action (adaptation)?

How can SEPA review and mitigation take into account the changes that have already occurred and are likely to occur to that may impact the proposed action. For example, how should sea level rise be included in the SEPA review for both non-project and project actions? (overlap with Bucket 2 – mitigation and adaptation)

1) What key decisions the IWG will need to make for the bucket?

In answering these questions, the IWG should consider both project and non-project actions. It is also helpful to consider both GHG impacts of and adaptation. See attached matrix.



Matrix.doc

What incentives, if any, should be used and how should they be designed?

1. Should “leveraging” combine disincentives, as well as incentives? That is, should the Incentive Program be set up with side-by-side carrots and sticks? (For example, to the extent there are incentives for housing close to transit, should there be a commensurate disincentives for housing distant from transit?)
2. Should there be gradations of exemptions (increasingly tasty carrots): from some SEPA requirements, to all of SEPA requirements, and/ or streamlining? If so, what should gradations of exemption/streamlining be based on?

What exceptions, if any, are needed?

3. Should “climate friendly” projects be exempt from mitigation/adaptation, but not an exemption from measurement and disclosure (so that there is continued data gathering and increased public awareness)? *(Note: overlap with “measurement/disclosure” bucket)*
4. Should any projects or nonprojects be exempted from SEPA climate change analysis based on “climate friendly” criteria? If yes, which should those be and what should be the criteria?
5. In an era of global warming, have any of the existing exemptions or similar provisions outlived their usefulness and, therefore, should be repealed? Or should global warming gas generation be like the “land covered by water” exception to exemptions and make the exemption not applicable to actions that will generate greenhouse gases above the state greenhouse gas reduction standards in 2008 Wash. Laws Ch. 14 § 3?
6. Are some projects or nonprojects so “green” in terms of climate change that they should be totally exempt from all SEPA review? (e.g. water efficiency project, conservation value easement, forest health project)

7. Are some projects or nonprojects only exempt from the GHG emissions part of climate change SEPA review? (*Note: overlap with “measurement/disclosure” bucket*)
8. If climate friendly concepts are going to be thresholds for exemptions or streamlining, how specific do they need to be? (X feet from transit).
9. Who decides what are “climate friendly” concepts (Ecology, local lead agencies, other) so that there agreement among jurisdictional agencies?
10. Does “climate friendly development” mean “inclusion of specific items-approach” or a “score card- approach”?
11. Should any existing or new exemptions require mitigation to the state greenhouse gas mitigation standards in [2008 Wash. Laws Ch. 14 § 3](#)?
12. What should be the standard for mitigation. (Overlaps with the mitigation bucket.)

What changes to the environmental review process, if any, are needed?

13. Should any projects or nonprojects undergo a “streamlined” environmental review or automatic DNS (overlaps with work area 2) based on meeting climate friendly criteria? (could look at planned action review or documented categorical exclusion under NEPA) If yes, which should those be and what should be the criteria?
14. Should any projects or nonproject actions automatically trigger an EIS based on climate change impacts? Or mitigation?
15. How can SEPA review and mitigation take into account the changes that have already occurred and are likely to occur as a result of global climate change that may adversely impact the proposed action?

Can existing laws and rules be used more effectively?

16. Are existing flexible rule exemptions being used to the maximum extent possible to encourage climate friendly development? See residential dwelling and other exemptions in [WAC 197-11-800](#). This could include both incentives and disincentives depending on the location, zoning, and type of development. Some jurisdictions used variable threshold depending on zoning, but could more be done? [Provide data on local SEPA ordinances].
17. Are programmatic approaches available now being used to the maximum extent possible to encourage climate friendly development? Can Planned Actions be used as a tool to encourage climate friendly development? Are many jurisdictions considering Planned Actions without the previously available PERF grants? Do planned actions increase greenhouse gas generation by streamlining development in poor locations? Can local jurisdictions do focused programmatic SEPA review on climate friendly development that could be adopted for streamlined SEPA review of desirable projects?
18. Taking strong steps to encourage and reward those jurisdictions which do subarea plan SEPA review.
19. Where possible ensure that citywide and subarea SEPA review, especially in area of climate change impacts, leads when needed to adoption of local development regulations which address significant impacts that might otherwise surface in project-level SEPA process.
20. Taking a fresh look at [43.21C.240](#) and [197-11-158](#) and revising them in a manner which makes them less bureaucratic, more user-friendly and more likely to be regularly used than at present.
21. In urban centers which conduct these subarea steps, exempt all development within these centers from SEPA. This is an important component to actually attract the desired developer investment in these areas. (See also the exemptions heading above.)

What coordination is needed with climate related efforts and efforts that may impact this process?

22. The GMA Policy Advisory Committee must coordinate its efforts from the outset with whatever initiatives emerge from Bucket 3.
23. How are SEPA incentives for “climate friendly” concepts coordinated with GMA planning and zoning?
24. How and where are climate friendly concepts established (policy regulation ...) with enough flexibility that they can be adapted to the evolving knowledge of climate change?
25. How will Cap and Trade be credited under SEPA? *(Note: isn't this under “mitigation” bucket?)*
26. What is the role of carbon sequestration and carbon credits as a form of SEPA mitigation, etc. What about carbon banks? *(Note: isn't this under “mitigation” bucket?)*
27. What is the role of wetland banking and conservation easements or fee simple permanent land use restrictions, Natural Area Preserves etc?
28. What is the role of agricultural water savings practices in terms of climate change mitigation for land use decision making?

Are amendments needed to the substantive requirements of SEPA?

29. Should SEPA mitigation be mandatory for greenhouse gas emissions (overlaps with the mitigation bucket).
30. If so, what is the standard?

2) What key products the IWG should develop?

3.0 Near term product:

Straw proposal/framework document on incentives and disincentives for “leveraging SEPA.” It would cover the questions (and related sub-questions in the Bucket #3 workplan): “What incentives, if any, should be used and how should they be designed?” and “What exceptions, if any, are needed?” (Suggested by Bucket #3). The document would cover:

- Projects and non-projects;
- GHG emissions impacts only; and
- The full range of incentives and disincentives, including exemptions, etc.

3.1 Guidance

- Recommendations on all of the above questions for Ecology guidance
- GMA and SMA Comprehensive Plan and Shoreline Master Program incorporation of climate change components reflecting any new SEPA requirements or changes
- GMA and SMA Comprehensive Plan and Shoreline Master Program substituting for SEPA Climate analysis.
- Cap and Trade credit use under SEPA

3.2 Tools

- Regional plans that assess climate change. Consistency with the regional plan could mean climate change impacts are handled.
- Prepare science reports that incorporate that information by reference for SEPA impact analysis and mitigation.

3.3 Forms (e.g., revised SEPA checklist)

- Revised nonproject review form to aid local government in assessing Climate Change in comp plan updates. [Technically, a revised SEPA checklist, whether for project and/or nonproject actions, would be a rule change. However, optional worksheets could be produced without rule changes.]

3.4 Recommended Rule/Statutory Language

- Draft language for RCW or WAC changes based on key decisions of IWG
- Draft language for a statutory exemption for zoning regulations and development meeting specific, measurable sustainable development standards.
- Draft language repealing exemptions that are allowing the generation of greenhouse gas emissions above the state's emission reduction targets.
- Revised nonproject review form to aid local government in assessing Climate Change in comprehensive plan updates and amendments.